



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 005
- Site address: Site at Groalpans, Glen of Newmill, Keith
- Application for review by Mr D Jenkinson against the decision by an Appointed Officer of Moray Council.
- Application 09/01961/PPP : Planning permission in principle to erect a new dwellinghouse.
- Unaccompanied site inspection carried out by MLRB on 14 May 2010

Date of Decision Notice : 7 June 2010

Decision

The MLRB reverses the decision of the Appointed Officer and grants Planning Permission in Principle, subject to conditions appended to this decision notice. Attention is also drawn to the informative notes which follow the conditions.

This permission does not carry with it any necessary consent or approval to the proposed development under the Building (Scotland) Act 1959 as amended or other enactments.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission in principle was considered by the MLRB at three meetings on 24 March, 22 April and 19 May 2010. The Review Body was attended at the three meetings by Councillors D Ross (Chair), J MacKay & P Paul.

2.0 Proposal

- 2.1 This is an application for planning permission in principle for the erection of a new dwellinghouse on a site, triangular in shape, slopes east to west and is approximately 1400m² in size. The site consists of open grassland with one boundary currently defined by an existing private access track and the two remaining boundaries are defined by a post and wire fence and a group of trees.

3.0 MLRB Consideration of request for review

- 3.1 At the meeting of the MLRB on 24 March 2010 it was noted that due to an error in the submission of the Notice of Review, which required clarification consideration was deferred to allow an opportunity for the information to be clarified and the correct documentation to be submitted to the MLRB.
- 3.2 At the meeting on 22 April 2010 consideration was given to the amended request for review which included a number of ordinance survey maps in support of the request. It was noted that whilst the applicant had intimated that this was new evidence the MLRB agreed that although not before the Appointed Officer at the time of determination of the application the Appointed Officer would have been aware of the topography of the surrounding area and therefore the submission of the ordinance survey maps was not considered to be new evidence, in terms of Section 43(B) of the Town and Country Planning (Scotland) Act 1997, as amended.
- 3.3 The MLRB agreed at the meeting on 22 April 2010 that there was insufficient information in order to proceed to determine the request for review and agreed that an unaccompanied site inspection be undertaken.
- 3.4 The site inspection was carried out on Friday 14 May 2010 and the Planning Adviser assisted in pointing out the site on approach and on the site he advised the MLRB as to the general nature of the proposal. He summarised the reasons for refusal and grounds for seeking a review and advised that there had been two previous refusals on the site. The MLRB also viewed the aspects referred to in the applicant's submission in regard to height/elevation/other properties in the location and the extent of prominence and backdrop.
- 3.5 At the meeting of the MLRB on 19 May 2010 it was agreed that, having visited the site, it now had sufficient information in order to proceed to determine the request for review and proceeded to consider the terms of refusal and grounds for review. Councillor Ross was of the view that, in his opinion, there was no natural backdrop and the site was overtly prominent when viewed from several vantage points. Councillor MacKay was of the opinion that the proposed site was far less prominent than the neighbouring property known as 'Heaven's Doorstep'. It was also noted that the two storey dwelling known as 'Heaven's Doorstep' which is located approximately 250 metres uphill to the north-east of the site under review was approved under delegation to the Appointed Officer.
- 3.6 Councillor Paul was of the view that, in her opinion, the site was not in an overtly prominent position, had a natural backdrop and would not detract from the rural character of the surrounding countryside. She was also of the view that given the topography of the surrounding countryside all the properties in the area could be considered relatively prominent. For these reasons Councillor Paul moved that the request for review be granted and the application for planning permission in principle be approved, as complying with policy, subject to appropriate conditions. The motion was seconded by Councillor MacKay.

- 3.7 Whilst Councillor Ross was still of the opinion that a one and a half storey dwelling on this site would be overtly prominent and the request for review should be refused the MLRB agreed, by a two to one majority, that the request for review be granted and that the application for planning permission in principle be approved as complying with policy, subject to the attached conditions and informatives which include a specific condition restricting the height of the proposed dwelling to single storey.

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R D BURNS
Clerk to the MLRB

CONDITIONS

1. (a) That in the case of any matter specified in conditions attached to the planning permission in principle, application for approval must be made before:-
 - (i) that expiration of 3 years from the date of the grant of planning permission in principle; or
 - (ii) the expiration of 6 months from the date on which an earlier application for such approval for the same matters was refused; or
 - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed; whichever is the latest: provided that only one such application for approval of matters specified in conditions may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above.
- (b) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
 - (i) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (ii) the expiration of 2 years from the final approval of the matters specified in conditions or in the case of approval on different dates the final approval of the last such matter to be approved.
2. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto and the landscaping of the site shall be obtained from the Council, as Planning Authority.
3. The grant of planning permission hereby granted for the proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 4-7 below.
4. Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition 3 above.
5. The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition 3 above.
6. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition 3 above.
7. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition 3 above.
8. Prior to the commencement of construction of the dwellinghouse a passing place shall be constructed on the public road network, in accordance with The Moray Council's specification, and at a position between the site and the C21H Newmill-Garralburn Road to be agreed by the applicant and the Roads Authority.

9. The dwelling shall be of single storey construction.
10. The design and materials of the dwellinghouse and landscaping proposals shall comply with the following requirements:-
 - (a) A roof pitch of between 40-55 degrees;
 - (b) A gable width of no more than 2.5 times the height of the wall from ground to eaves level;
 - (c) Uniform external finishes and materials including slate or dark "slate effect" roof tiles;
 - (d) A vertical emphasis and uniformity to all windows;
 - (e) Proposals must be accompanied by a plan showing 25% of the plot area to be planted with native species trees, at least 1.5m in height;
 - (f) Where there is an established character, or style, of boundary demarcation in the locality (e.g. beech hedges, dry stone dykes) new boundaries must be sympathetic.
11. The roof of the dwelling hereby approved shall be finished in natural slate or a good quality artificial slate to be agreed in writing by the Council (as Planning Authority) prior to the commencement development.

REASONS

1. The time limit condition is imposed in order to comply with the requirements of Section 59 of the town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006.
2. In order to ensure that the matters specified can be fully considered prior to the commencement of development.
3. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
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8. In the interests of road safety.
9. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
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ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

The following notes are provided for your information including comments received from consultees:-

THE TRANSPORTATION MANAGER, DIRECT SERVICES, ACADEMY STREET, ELGIN has commented that:-

‘The final section of road leading to the plot is a private access track and would require upgrading to ensure that it would be accessible for emergency service vehicles’.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
- 2 If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.